IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

TUESDAY, THE 5TH JUNE 2007 / 15TH JYAISHTA 1929

WA.No. 1285 of 2007()

AGAINST THE ORDER IN WPC.10285/2007 Dated 26/03/2007
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APPELLANT/PETITIONER:

CANARA BANK, HEAD OFFICE
J.C.ROAD, BANGALORE-560 002.

BY ADV. SRI.C.K.KARUNAKARAN

RESPONDENTS/RESPONDENTS:
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1. THE STATE OF KERALA, REP. BY THE PRINCIPAL SECRETARY, DEPARTMENT OF REVENUE, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. DISTRICT COLLECTOR, KOLLAM.

3. THE TAHSILDAR (R.R.), KOLLAM.

4. THE RECOVERY OFFICER, DEBUTS RECOVERY TRIBUNAL, ERNAKULAM.

5. M/S.SUJIR GANESH NAYAK & CO., A PARTNERSHIP FIRM REPRESENTED BY ITS PARTNERS, SUJIR VILLA, KOCHUPILAMMOODU, MUNDAKKAL EAST, KOLLAM.

6. M/S.S.G.N.CASHEW COMPANY, SUJIR VILLA, KOCHUPILAMMOODU, MUNDAKKAL EAST, KOLLAM, REP. BY MRS.GITANJALI PAI, L.R. OF LATE SUJIR GANESH NAYAK, PROPRIETOR.

R1 TO R4 BY SR.GOVT. PLEADER SMT.MEERA

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 05/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.1285 of 2007

Dated, this the 5th day of June, 2007

JUDGMENT

H.L.Dattu, C.J.

Against an interim order passed by the learned Single Judge in W.P.(C) No.10285 of 2007 dated 26th March, 2007 the Bank is before us in this appeal.

2. In the writ petition, the Bank had requested this Court to issue a writ in the nature of mandamus directing respondents 1 to 3 in the writ petition to sell the property that is not mortgaged or charged with the petitioner and secondly for a declaration that the proposed sale of the properties through Exts.P5 and P6 is illegal and void. The learned Single Judge taking into consideration that the respondents have already initiated proceedings for effecting paper publication for auctioning the properties, thought it fit to grant an interim order directing the respondents not to confirm the sale in favour of any third party who may participate in the auction that may be held by the respondents pursuant to their notifications Exts.P5 and P6.

3. In fact, the interim order that is granted by the learned Single Judge is beneficial to both the petitioner as well as the respondents. The interim order so passed, in our view, is neither arbitrary, nor illegal nor unreasonable. In that view of the matter interference with the said interim order is not called for. Accordingly, the writ appeal is rejected. Liberty is reserved to the appellant to

raise all contentions which are available to them including the contentions raised in this writ appeal. Ordered accordingly.

I.A.No.465 of 2007 stands dismissed.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns